

## REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-40 are pending. Claims 1-40 stand rejected. Claims 2, 15, 29 and 37 have been canceled. Claims 1, 10, 16, 25, and 33 have been amended herein. No new matter has been added. Support for the amendments can be found in the instant specification at least at page 12, lines 10-15; and page 8, lines 5-9.

## CLAIM REJECTIONS – 35 U.S.C. §103(a)

### Claims 1-3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40

The instant Office Action states that Claims 1- 3, 6, 7, 9-12, 15-18, 20, 25, 26, 29, 30, 32-34, 37, 38, and 40 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,594,245 to Rimhagen et al. (referred to hereinafter as “Rimhagen”) in view of U.S. Patent Application Publication No. 2003/0009576 to Apostolopoulos et al. (referred to hereinafter as “Apostolopoulos”) further in view of U.S. Patent Application Publication No. 2003/0009576 to Norstrom et al. (referred to hereinafter as “Apostolopoulos”). Claims 2, 15, 29 and 37 have been canceled; therefore a discussion of these claims is moot. Applicants have reviewed Rimhagen, Apostolopoulos and Norstrom and respectfully submits that the embodiments of the present invention as recited in Claims 1, 3, 6, 7, 9-12, 17, 18, 20, 25, 26, 30, 32-34, 38, and 40 are patentable over Rimhagen in view of Apostolopoulos and further in view of Norstrom for at least the following rationale.

Applicants respectfully assert that the combination of Rimhagen, Apostolopoulos and Norstrom do not teach, describe or suggest the invention as claimed because the combination of the Rimhagen, Apostolopoulos and Norstrom do not satisfy the requirements of a *prima facie* case of obviousness.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of

law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in original; MPEP 2141.02(I)). Applicants note that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141(III)).

Applicant respectfully directs the Examiner to independent Claim 1, with similar features in Claim 16, which recites that an embodiment of the present invention is directed to (emphasis added):

A method for delivering data, in a wireless system comprising a distributed infrastructure of access points, said method comprising:

identifying a plurality of access points to be used cooperatively in combination with each other for the transmission of said data to a receiver, wherein said cooperative usage of said plurality of access points is maintained for at least some portion of a data transmission period;

enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps and wherein said pattern is selected from a group of predetermined patterns; and

determining, during the transmission, performance of at least one of said access points being used for the transmission to enable transmitting at least a portion of said data through a different access point while the transmission is in progress, wherein said performance is based at least on examination of said timestamps.

Claims 3, 6, 7, and 9 depend from independent Claim 1 and Claims 17, 18 and 20 depend from Claim 16 also include these limitations.

Applicants respectfully submit that Rimhagen in view of Apostolopoulos further in view of Norstrom does not teach or suggest, “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps and wherein said pattern is selected from a group of predetermined patterns” (emphasis added) as recited by Claim 1, with similar limitations in Claim 16.

Applicants understand Rimhagen to teach “The novel principles of multiple serving CSs (e.g., BSs, radio heads, etc.) in accordance with the present invention may include splitting information between the multiple serving CSs. With multiple serving coverage units, the information flow is split between or among the serving CSs.” and “Providing multiple serving coverage units may entail synchronizing the serving CSs as well as designing protocols that support more than one serving coverage unit.” (emphasis added, Rimhagen, col. 4 lines 53-67). Accordingly, Applicants respectfully submit that Rimhagen does not teach, describe or suggest “wherein said data is transmitted in a pattern” and “wherein said pattern is selected from a group of predetermined patterns“as claimed.

Moreover, Applicants submit that Apostolopoulos does not overcome the shortcomings of Rimhagen. Applicants understand Apostolopoulos to disclose a method of handing off streaming media sessions. (Apostolopoulos, abstract).

Moreover, Applicants submit that Norstrom does not overcome the shortcomings of Rimhagen. Applicants understand Norstrom to disclose “Method and apparatus for providing a substantially seamless hand over of a user receiving a data stream when the user moves from a first location served by a first server to a second location served by a second server. The data stream is provided at both the first and the second servers, and the data streams at the first and second servers are synchronized so that when the user moves from the first location to the second location, the user will start receiving the data stream at the second location at

substantially a same point in the data stream at which the user stops receiving the data stream at the first location." (Norstrom, abstract).

More specifically, Apostolopoulos and Norstrom do not teach, describe or suggest "enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps and wherein said pattern is selected from a group of predetermined patterns" as claimed (emphasis added). Therefore, Applicants respectfully submit that Claims 1, 3, 6, 7, 9, 16-18 and 20 are patentable over Rimhagen in view of Apostolopoulos further in view of Norstrom.

Applicant respectfully directs the Examiner to independent Claim 10, with similar features in Claims 25 and 33, that recites that an embodiment of the present invention is directed to (emphasis added):

A method for delivering data utilizing a multi-access point transmission scheme, said method comprising:

identifying a plurality of access points to be used cooperatively in combination with each other for the transmission of said data to a receiver wherein said cooperative usage of said plurality of access points is maintained for at least some portion of a data transmission period, wherein data packets of said data comprise timestamps;

delivering a first portion of said data to said receiver via a first access point;

delivering a second portion of said data to said receiver via a second access point, wherein said first portion of said data and said second portion of said data are delivered to said receiver utilizing at least one predetermined multi-access point transmission scheme and wherein said first and said second access points operate cooperatively and in combination by transmitting different portions of said data in an alternating manner; and

determining, during the delivering of said first and second portions, performance of at least one of said access points being used for the delivering of said first and second portions to enable delivering at least a portion of said data through a different access point while the first and second portions are being delivered, wherein said performance is based at least on examination of said timestamps.

Claims 11 and 12 depend from independent Claim 10, Claims 26, 30, and 32 depend from independent Claim 25, and Claims 34, 38, and 40 depend from Claim 33. Therefore, Claims 11, 12, 26, 30, 32, 34, 38 and 40 recite the similar limitations.

Applicants respectfully submit that Rimhagen in view of Apostolopoulos further in view of Norstrom does not teach or suggest, “wherein said first and said second access points operate cooperatively and in combination by transmitting different portions of said data in an alternating manner” (emphasis added) as recited by Claim 10, with similar limitations in Claims 25 and 33.

As stated above, Applicants understand Rimhagen to teach “The novel principles of multiple serving CSs (e.g., BSs, radio heads, etc.) in accordance with the present invention may include splitting information between the multiple serving CSs. With multiple serving coverage units, the information flow is split between or among the serving CSs.” and “Providing multiple serving coverage units may entail synchronizing the serving CSs as well as designing protocols that support more than one serving coverage unit.” (emphasis added, Rimhagen, col. 4 lines 53-67). Accordingly, Applicants respectfully submit that Rimhagen does not teach, describe or suggest “wherein said first and said second access points operate cooperatively and in combination by transmitting different portions of said data in an alternating manner “ as claimed.

Applicants respectfully assert that Apostolopoulos and Norstrom also do not overcome the shortcomings of Rimhagen in this regard and do not teach, disclose or suggest “wherein said first and said second access points operate cooperatively and in combination by transmitting different portions of said data in an alternating manner” as claimed. Therefore, Applicants respectfully submit that Claims 10-12, 25, 26, 30, 32, 33, 34, 38, and 40 are patentable over Rimhagen in view of Apostolopoulos further in view of Norstrom.

Thus, Applicants respectfully submit that Claims 1, 3, 6, 7, 9-12, 17, 18, 20, 25, 26, 30, 32-34, 38, and 40 overcome the rejection under 35 U.S.C. § 103(a), and

that these claims are patentable over Rimhagen in view of Apostolopoulos and further in view of Norstrom.

Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39

The instant Office Action asserts that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Rimhagen in view of Apostolopoulos, further in view of Norstrom and still further in view of Nakamichi. Applicants have reviewed Rimhagen, Apostolopoulos, Norstrom and Nakamichi, and respectfully submits that the embodiments of the present invention as recited in Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 are patentable over Rimhagen in view of Apostolopoulos, further in view of Norstrom, and still further in view of Nakamichi, for at least the following rationale

Claims 4 and 5 are dependent on independent Claim 1 and Claims 19 and 21-24 are dependent on independent Claim 16. Hence, by demonstrating above that the combination of Rimhagen, Apostolopoulos and Norstrom do not show or suggest “enabling the transmission of said data to said receiver via said plurality of access points, wherein said data is transmitted in a pattern that uses at least two access points during at least some portion of said data transmission period, wherein data packets of said data comprise timestamps and wherein said pattern is selected from a group of predetermined patterns” as recited in Claim 1, with similar features in Claim 16, it is also demonstrated that the combination of references does not show or suggest the embodiments of Claims 4, 5, and 21-24.

Applicants understand Nakamichi to disclose a device and method for collecting traffic information (Nakamichi, abstract). Applicants respectfully submit that Nakamichi does not overcome the shortcomings of Rimhagen, Apostolopoulos and Norstrom. Therefore, Applicants respectfully submit that Claims 4, 5, and 21-24 are patentable over Rimhagen in view of Apostolopoulos further in view of Norstrom still further in view of Nakamichi.

Claims 13 and 14 are dependent on independent Claim 10; Claims 27, 28, and 31 are dependent on independent Claim 25; and Claims 35, 36, and 39 are dependent on independent Claim 33. Hence, by demonstrating above that the combination of Rimhagen, Apostolopoulos and Norstrom do not show or suggest “wherein said first and said second access points operate cooperatively and in combination by transmitting different portions of said data in an alternating manner” as recited in Claim 10, with similar features in Claims 25 and 33, it is also demonstrated that the combination of references does not show or suggest the embodiments of Claims 13, 14, 27, 28, 31, 35, 36, and 39.

Applicants respectfully submit that Nakamichi does not overcome the shortcomings of Rimhagen, Apostolopoulos and Norstrom this regard either. Therefore, Applicants respectfully submit that Claims 13, 14, 27, 28, 31, 35, 36, and 39 are patentable over Rimhagen in view of Apostolopoulos further in view of Norstrom still further in view of Nakamichi.

In view of the combination of Rimhagen in view Apostolopoulos, further in view of Norstrom, still further in view of Nakamichi not satisfying the requirements of a *prima facie* case of obviousness, Applicants respectfully submit that Claims 4, 5, 13, 14, 19, 21-24, 27, 28, 31, 35, 36 and 39 overcome the rejection under 35 U.S.C. § 103(a), and that these claims are thus in a condition for allowance.

### CONCLUSION

In light of the above listed amendments and remarks, reconsideration of the rejected claims is requested. Based on the arguments and amendments presented above, it is respectfully submitted that Claims 1, 3-14, 19-28, 30-36, and 38-40 overcome the rejections of record. For reasons discussed herein, Applicants respectfully request that Claims 1, 3-14, 19-28, 30-36, and 38-40 be considered by the Examiner. Therefore, allowance of Claims 1, 3-14, 19-28, 30-36, and 38-40 is respectfully solicited.

Should the Examiner have a question regarding the instant amendment and response, the Applicants invite the Examiner to contact the Applicants' undersigned representative at the below listed telephone number.

Respectfully submitted,  
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